

REMARKS

Claims 1-16 stand rejected. With this Response, no claims are added canceled, or amended. Accordingly, claims 1-16 remain at issue.

I. Applicant's Declaration Under 37 C.F.R. 1.131

The Examiner contends that Applicant's Declaration under 37 C.F.R. 1.131 is ineffective to overcome the effective filing date of *Rouse et al.* (U.S. Patent Pub. 2002/0087260, hereinafter "*Rouse*"). The Examiner contends that the evidence submitted is insufficient to establish reduction to practice prior to the effective date. 37 C.F.R. 1.131(b) states

The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, **or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application.**

(Emphasis added.) In other words, Applicant's declaration is effective if it establishes conception prior to the effective date with due diligence up to the date of filing. The Applicant is not required to establish reduction to practice before the effective date of *Rouse*.

Accordingly, Applicant resubmits his declaration with a new Exhibit A in which the date or the report is not redacted. The date of the report, June 1, 2000, of the invention shows conception of the invention by May 30, 2000. Applicant swears under the penalty of perjury that he was reasonably diligent in constructively reducing the invention to practice. Moreover, the attorney's diligence in drafting the application to constructively reduce the application to practice inures to the benefit of the Applicant. Accordingly, Applicant respectfully submits that the showing of the facts is sufficient to establish conception and reasonable diligence prior to the effective date, and therefore the declaration is sufficient to remove *Rouse* as a prior art reference.

II. 35 U.S.C. § 102 Anticipation Rejection of Claims

Claims 1-16 are rejected under 35 U.S.C. § 102(e) as being purportedly anticipated by *Rouse*. Applicant respectfully traverses this rejection.

Regarding claims 1-16, Applicant submits herewith a declaration under 37 C.F.R. § 1.131 signed by the inventor showing prior conception of Applicant's invention before the effective date of the *Rouse* application and showing subsequent reasonable diligence in reducing to the invention to practice to the filing date of the *Rouse* application. Accordingly, Applicants respectfully submit that claims 1-16 are patentable over the *Rouse* Application.

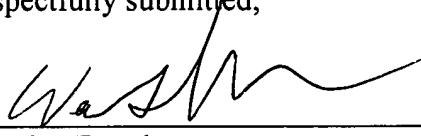
III. Conclusion

In view of the above remarks, Applicant submits that all claims are allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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